

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

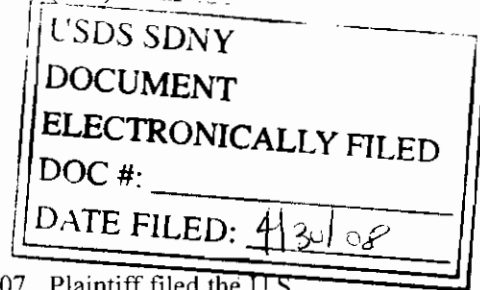
EULALIA RODRIGUEZ,
Plaintiff.

-v-

ROSE M. SINGER CENTER, ET ANO,
Defendants.

Case No. 07-cv-03988 (RJS)

ORDER



RICHARD J. SULLIVAN, District Judge:

The pro-se complaint in the above-entitled action was filed on May 22, 2007. Plaintiff filed the U.S. Marshal's Process Receipt and Return of Service form according to the docket sheet, with the Clerk of the Court, on August 16, 2007 unexecuted as to defendant Officer C.Q. Straker. This case was reassigned to my docket on September 4, 2007.

On September 20, 2007, the Court received a letter from Jessica T. Cohen, Esq., on behalf of both defendants, advising the Court that they believe they were not served properly and that they would not be answering the Complaint because they were not properly served.

On October 12, 2007, the Court issued an order directing the Plaintiff to contact the Pro Se office for assistance in prosecuting this case. To date, an affidavit of service of the summons and complaint has not been filed with the Clerk of the Court. The time within which the Plaintiff has to serve the complaint without further leave of the Court has expired.

On March 5, 2008, the Plaintiff was Ordered to Show Cause on March 24, 2008 at 4:15pm in the United States District Court for the Southern District of New York located at 500 Pearl Street, New York, New York 10007, Courtroom 21C, why this case should not be dismissed for failure to prosecute, pursuant to rule 41(b) of the Federal Rules of Civil Procedure. Plaintiff was advised that failure to appear or otherwise notify this Court, may result in the dismissal of this action.

The Court had not received any communication from the Plaintiff, nor did she appear before the Court on March 24, 2008. Accordingly, for the reasons set forth above and stated on the record on March 24, 2008, the Court ordered that this complaint be dismissed without prejudice.

However, after the March 24 conference, but before issuance of a written order dismissing the case, the Court received a letter dated March 13, 2008, addressed to the Pro Se Office, from Plaintiff indicating that Plaintiff's address had changed, (Plaintiff is currently in custody at the New York Correctional Facility at Bedford

Hills, New York),and asserting that Plaintiff“would not like this case to be dismissed.” Plaintiff concluded by asking the Pro Se office, “I would like to know what I have to do next.”

In light of this letter, which was post-marked March 17, 2008, the Court hereby vacates the March 24, 2008 order dismissing this action. Plaintiff is directed to submit a letter to the Court, with copies to opposing counsel, setting forth the reasons for Plaintiff’s failure to serve the complaint and otherwise prosecute this matter. Plaintiff’s letter shall be submitted no later than May 10, 2008.

Dated: April 29, 2008
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE